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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/455,805	12/07/1999	SUSAN D. WOOLF	03797.78802	5591

28319 7590 12/30/2005

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EXAMINER

NGUYEN, MAIKHANH

ART UNIT PAPER NUMBER

2176

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/455,805	WOOLF ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Maikhanh Nguyen	2176	

All participants (applicant, applicant's representative, PTO personnel):

(1) Maikhanh Nguyen (USPTO).

(3) Gary D. Fedorochko (Applicant's representative).

(2) William Bashore (USPTO).

(4) \_\_\_\_.

Date of Interview: 15 December 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_.

Claim(s) discussed: N/A.

Identification of prior art discussed: N/A.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: see the attachment.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

*William L. Bashore*  
WILLIAM BASHORE  
PRIMARY EXAMINER  
12/22/2005

*Maikhanh Nguyen*

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

The affidavit filed August 11, 2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the effective filing date of Eintracht reference (U.S. Patent No. 6,687,878), for the following reasons:

- a. On pages 1-3 of the affidavit, Applicant references a document titled Microsoft Patent Predisclosure Document in Exhibit A, which applicant relies on to show the date of conception for the claimed invention. It is noted that the document titled Microsoft Patent Predisclosure Document in Exhibit B appears to be a description of the Applicant's invention (*The Burroughs court clearly articulated the requirement of detailed disclosure for defining the limits of an invention as follows: the test for conception is whether the inventor had an idea that was definite and permanent enough that one skilled in the art could understand the invention; the inventor must prove his conception by corroborating evidence, preferably by showing a contemporaneous disclosure. An idea is definite and permanent when the inventor has a specific, settled idea, a particular solution to the problem at hand, not just a general goal or research plan he hopes to pursue. See Fiers v. Revel, 984 F.2d 1164, 1169, 25 USPQ2d 1601, 1605 (Fed.Cir.1993) . . . The conception analysis necessarily turns on the inventor's ability to describe his invention with particularity. Until he can do so, he cannot prove possession of the complete mental picture of the invention. These rules ensure that patent rights attach only when an idea is so far developed that the inventor can point to a definite, particular invention.*) The affidavit, however, fails to establish a correlation

between the referenced document and the instant claims. For example, the examiner cannot find a mapping of the material from the Exhibit to the claimed limitations.

Applicant must supply information to adequately show that the purported conception included every feature or limitation of the claimed invention. Applicant bears the burden of providing clear explanation of how the proffered evidence supports conception of the claimed invention.

In light of the foregoing, the affidavit's lack of necessary evidence fails to provide definiteness that illuminates conception of the instant claims as of the date at issue.

- b. Applicant declares that the screen shot on page 3 of the Predisclosure Document was reduced to practice. This submission is inadequate to prove the invention actually worked for its intended purpose (*MPEP, 2138.05, "For an actual reduction to practice, the invention must have been sufficiently tested to demonstrate that it will work for its intended purpose".*) Applicant has failed to provide a clear explanation of how the claimed invention equates with the "screen shots" of Exhibit A. There is no evidence to show whether the test results demonstrate that the test was in fact successful; and whether the test results, if successful, were also reproducible. Applicant bears the burden of providing clear explanation of how the proffered evidence supports reduction to practice of the claimed invention.

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In light of the foregoing, the affidavit's lack of necessary evidence fails to provide definiteness that illuminates reduction to practice of the instant claims as of the date at issue.

Accordingly, said affidavit is ineffective to overcome the effective filing date of the Eintracht reference at the present time.

The Examiner respectfully notes that prosecution was closed in accordance to the final rejection, which was mailed on 10/31/2005. A decision to enter (or not enter) any submission while prosecution is closed, will be made accordingly at the proper time.

*William L Bashore*  
**WILLIAM BASHORE**  
**PRIMARY EXAMINER**  
*12/22/2005*